

Filed for intro on 04/16/97
SENATE BILL 1976 By
Davis L

HOUSE BILL 1971
By Ferguson

AN ACT relative to Charter of the City of Harriman, Tennessee,
and to amend Chapter 49 of the Acts of 1891, and all
acts amendatory thereto, and Chapter 165 of the Private
Acts of 1917, and all acts amendatory thereto, being the
Charter of the City of Harriman.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 49 of the Acts of 1891, as amended by Chapter 165 of the Private Acts of 1917, Chapter 712 of the Private Acts of 1917, Chapter 389 of the Private Acts of 1919, Chapter 294 of the Private Acts of 1921, Chapter 526 of the Private Acts of 1921, Chapter 861 of the Private Acts of 1921, Chapter 941 of the Private Acts of 1921, Chapter 30 of the Private Acts of 1923, Chapter 187 of the Private Acts of 1925, Chapter 468 of the Private Acts of 1925, Chapter 546 of the Private Acts of 1931, Chapter 232 of the Private Acts of 1937, Chapter 233 of the Private Acts of 1937, Chapter 387 of the Private Acts of 1937, Chapter 472 of the Private Acts of 1937, Chapter 118 of the Private Acts of 1939, Chapter 506 of the Private Acts of 1939, Chapter 360 of the Private Acts of 1941, Chapter 148 of the Private Acts of 1943, Chapter 446 of the Private Acts of 1943, Chapter 821 of the Private Acts of 1947, Chapter 109 of the Private Acts of 1959, Chapter 178 of the Private Acts of 1969, Chapter 350 of the Private Acts of 1972, Chapter 250 of the Private Acts of 1976, Chapter 7 of the Private Acts of 1983, Chapter 112 of the Private Acts of 1983, and all other acts amendatory thereto are amended in their entirety to read as follows:

ARTICLE I

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Incorporation, Boundaries

Section 1. Incorporation. The inhabitants of the City of Harriman, in the County of Roane, as the same stands and is herein laid out, are hereby constituted a body politic and corporate under the name and style of "The City of Harriman," and by that name shall have perpetual succession; may sue and be sued; plead and be impleaded in all courts of law and equity and in all actions whatever; may purchase, receive and hold real, personal and mixed property within or without such city, for municipal purposes, and may sell, lease, or dispose of the same for the benefit of such city; and may do all other acts touching the same as a natural person; and may have and use a common seal and alter the same at pleasure.

Section 2. Boundaries. The boundaries of the City of Harriman, shall be as fixed by Chapter 49 of the Acts of 1891, and by Chapter 165 of the Private Acts of 1917, as amended, and any annexations or detachments of territory made pursuant to law.

ARTICLE II

Powers

Section 1. General Powers. The city council shall have the management and control of the city finances and all property of the corporation, real, personal and mixed, and shall have the power by ordinance to:

- (1) Assess, levy and collect taxes for all general and special purposes on all subjects or objects of taxation and privileges taxable by law for state, county or municipal purposes;
- (2) Adopt classifications of the subjects and objects of taxation that are not contrary to law;
- (3) Make special assessments for local improvements;
- (4) Contract and be contracted with;
- (5) Incur debts by borrowing money or otherwise and give any appropriate evidence thereof in the manner hereinafter provided;

(6) Issue and give, sell, pledge or in any manner dispose of negotiable or non-negotiable interest-bearing or noninterest-bearing bonds, warrants, promissory notes or orders of the municipality in accordance with state law;

(7) Expend the money of the municipality for all lawful purposes;

(8) Acquire or receive and hold, maintain, improve, sell, lease, mortgage; pledge or otherwise dispose of property, real or personal, and any estate or interest therein within or without the municipality or state;

(9) Condemn property, real or personal, or any easement, interest or estate or use therein, either within or without the municipality, for present or future public use in accordance with the terms and provisions of state law;

(10) Take and hold property within or without the municipality or state upon trust and administer trusts for the public benefit;

(11) Acquire, construct, and extend public utilities and telecommunications systems and to assess the cost of such acquisition, construction and extension against abutting property owners. Acquire, construct, extend, own, operate, regulate and maintain or sell, lease, mortgage, pledge or otherwise dispose of public utilities and telecommunications systems or any estate or interest therein, or any other utility or service to the municipality, its inhabitants or any part thereof; and, further, may issue debt for these purposes under the Local Government Public Obligations Act or other pertinent state law;

(12) Grant to any person, firm, association or corporation (including the municipality) franchises for public utilities, telecommunications systems, and public services to be furnished both inside and outside the municipality and inhabitants therein. The power to grant franchises embraces the power to grant exclusive franchises to the extent not prohibited by federal or state law. Whenever an exclusive franchise is granted, it shall be exclusive not only as against any other person, firm, association, or

corporation but also against the municipality itself. Franchises may be granted for a period of time to be fixed by the city council, but not to exceed twenty (20) years. The council may prescribe in each grant of a franchise, the rates, fares, charges and regulations that may be made by the grantee of the franchise in accordance with state and federal law. Franchises may by their terms apply to the territory within the corporate limits of the municipality at the date of the franchises, and may also apply to any or all subsequent modifications to the corporate limits, and to the existing and future streets, alleys and thoroughfares;

(13) Make contracts with any person, firm, association or corporation for public utilities, telecommunications systems, and public services to be furnished both inside and outside the municipality and inhabitants therein. The power to make contracts embraces the power to make exclusive contracts to the extent permitted by state or federal law. When an exclusive contract is entered into, it shall be exclusive not only against any other person, firm, association or corporation but also against the municipality itself. These contracts may be entered into for a period of twenty (20) years or less, but not longer. The council may prescribe in each such contract entered into, the rates, fares, charges, and regulations that may be made by the person, firm, association or corporation with whom the contract is made. Such contracts may by their terms apply to the territory within the corporate limits of the municipality at the date of the contract, may also apply to any or all subsequent modifications to the corporate limits, and to the existing and future streets, alleys and thoroughfares;

(14) Prescribe reasonable regulations regarding the construction, maintenance, equipment, operation and service of public utilities and telecommunications systems, compel reasonable extensions of facilities for these services, and assess fees for the use of, or impact upon, these services. Nothing herein shall be construed to permit the

alteration or impairment of any of the terms or provisions of any exclusive franchise granted or of any exclusive contract entered into under subdivisions (12) and (13);

(15) Establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light, sprinkle and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public grounds, public facilities, libraries, squares, wharves, bridges, viaducts, subways, tunnels, sewers and drains within or without the corporate limits, regulate their use within or without the corporate limits, assess fees for the use of or impact upon such property and facilities, and take and appropriate property therefor under the provisions provided by the general laws of the state;

(16) Construct, improve, reconstruct and reimprove by opening, extending, widening, grading, curbing, guttering, paving, graveling, macadamizing, draining or otherwise improving any streets, highways, avenues, alleys or other public places within and without the corporate limits, and assess the cost of these improvements on the property abutting on or adjacent to these streets, highways or alleys under, and as provided by, state law;

(17) Assess against abutting property within and without the corporate limits the cost of planting shade trees, removing from sidewalks all accumulations of snow, ice, and earth, cutting and removing obnoxious weeds and rubbish, street lighting, street sweeping, street sprinkling, street flushing, and street oiling;

(18) Acquire, purchase, provide for, construct, regulate and maintain and do all things relating to all marketplaces, public buildings, bridges, sewers and other structures, works and improvements inside and outside the municipality;

(19) Collect and dispose of drainage, sewage, ashes, garbage, refuse or other waste, or license and regulate their collection and disposal inside and outside the

municipality, and the cost of collection, regulation, or disposal may be funded by taxation, special assessment to the property owner, user fees or other charges;

(20) License and regulate all persons, firms, corporations, companies and associations engaged in any business, occupation, calling, profession or trade not prohibited by law;

(21) Impose a license tax upon any animal, thing, business, vocation, pursuit, privilege or calling not prohibited by law;

(22) Define, prohibit, abate, suppress, prevent and regulate all acts, practices, conduct, business, occupations, callings, trades, use of property and all other things whatsoever detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience or welfare of the inhabitants of the municipality, and exercise general police powers;

(23) Prescribe limits within which business occupations and practices liable to be nuisances or detrimental to the health, morals, security or general welfare of the people may lawfully be established, conducted or maintained;

(24) Regulate the location, bulk, occupancy, area, lot, location, height, construction and materials of all buildings and structures, and inspect all buildings, lands and places as to their condition for health, cleanliness and safety, and when necessary, prevent their use and require any alteration or changes necessary to make them healthful, clean or safe;

(25) Provide and maintain charitable, educational, recreative, curative, corrective, detentive, or penal institutions, departments, functions, facilities, instrumentalities, conveniences and services;

(26) Purchase or construct, maintain and establish a workhouse for the confinement and detention of any person convicted in the city court of offenses against the laws and ordinances of the municipality who fails to secure the fine imposed upon

such person, or contract with the county to keep these persons in the workhouse of the county and provide by that contract and by ordinance for the commitment of these persons to the workhouse so provided until the fines are paid;

(27) (A) Enforce any ordinance by fines, forfeitures, and penalties, and by other actions or proceedings in any court of competent jurisdiction; and

(B) No fine, forfeiture or penalty may exceed five hundred dollars (\$500) or the maximum allowable under general state law, whichever is greater, for violation of municipal ordinances;

(28) Establish, maintain and operate a complete educational system within the municipality, establish and determine the membership of a board of education and endow that board with all authority to operate the school system pursuant to state law and this charter, review annually the operating budget of the school system and appropriate revenue to support the approved budget, purchase or otherwise acquire land for school buildings, playgrounds and other purposes necessary to the operation of the school system, purchase or erect all buildings, and do all other acts necessary for the establishment of such educational system;

(29) Regulate, tax, license or suppress the keeping or going at large of animals within the municipality, impound them, and in default of redemption, sell or kill them;

(30) Call elections as herein provided;

(31) By ordinance, assess, impose, levy and collect impact fees from new land developments within the municipal limits, provided that the impact fees are limited to the reasonably anticipated costs of public improvements generated by such developments, and provided that the impact fee system and formula are prescribed by ordinance;

(32) To establish, maintain and operate a city hospital and any other general health facility deemed to be necessary and in the best interests of the health of the city inhabitants; and

(33) Have and exercise all powers that now or hereafter it would be competent for this charter specifically to enumerate, as fully and completely as though these powers were specifically enumerated.

ARTICLE III

Elections

Section 1. Date of general city election. A general city election shall be held on the same date as the regular August election in August 2000 and each even-numbered year thereafter.

Section 2. General election laws apply. All elections shall be conducted by the commissioners of elections of Roane County in accordance with the general election laws of the state and this charter.

Section 3. Voter qualification requirements. Persons residing within the corporate boundaries of the City of Harriman and meeting the residency requirements prescribed by the election laws of the State of Tennessee and who are otherwise qualified to vote in state elections shall be eligible to vote in city elections, provided they are properly registered in accordance with the applicable laws of the State of Tennessee.

Section 4. Election transition procedure. At the regular city election held on the first Tuesday after the first Monday in June, 1997, the three (3) council candidates receiving the highest number of votes shall be declared to be elected and shall serve until their successors are elected at the general city election in August, 2000, and have taken office in accordance with the provisions of Article IV, Section 1, of this charter.

At the regular city election held on the first Tuesday after the first Monday in June, 1999, the candidate for mayor and the three (3) council candidates receiving the highest number of votes shall be declared to be elected and shall serve until their successors are elected at the general city election in August, 2002, and have taken office in accordance with the provisions of Article IV, Section 1, of this charter.

Effective with the expiration of their terms, which expire on the date of the city election in June, 1999, the positions of city treasurer, city judge and city attorney shall cease to be elected positions. Following the expiration of the treasurer's term, the position of city treasurer shall cease to be a position and the functions of the treasurer's position shall become the responsibility of the finance director who shall be appointed and shall function in accordance with the provisions of Article VI of this charter.

Following the expiration of the city judge's term of office in June, 1999, the position of city judge shall become an appointed position, and at the first regular council meeting following the regular city election in June, 1999 the city council shall appoint a city judge to serve until the first regular city council meeting in September, 2000, and the appointment in 1999, and in 2000 and in all subsequent even-numbered years shall be made in accordance with the provisions of Article XI of this charter.

Following the expiration of the city attorney's term of office in June, 1999, the position of city attorney shall become an appointed position and at the first regular council meeting following the regular city election in June, 1999 the city council shall appoint a city attorney in accordance with the provisions of Article VII of this charter.

At the regular city election held on the first Tuesday after the first Monday in June 1997, the three (3) board of school directors candidates receiving the highest number of votes shall be elected and shall serve until their successors are elected at the general city election in August, 2000 and have taken office in accordance with the provisions of Article XII, Section I, of this charter.

At the regular city election held on the first Tuesday after the first Monday in June, 1997, the two (2) board of school directors candidates receiving the fourth and fifth highest number of votes shall be elected and shall serve until their successors are elected at the regular city election in June, 1999.

At the regular city election held on the first Tuesday after the first Monday in June, 1999, the three (3) board of school directors candidates receiving the highest number of votes shall be elected and shall serve until their successors are elected at the general city election in August, 2002, and have taken office in accordance with the provisions of Article XII, Section I, of this charter.

At the first regular city council meeting following the adoption of this charter, the city council shall appoint an acting city manager who shall hold such position until a city manager has been appointed or until the city council appoints a different person as acting city manager. The city council shall proceed with the recruitment and appointment of a city manager and shall have made such appointment by October 31, 1997.

ARTICLE IV

City Council

Section 1. Composition and term of office. The governing body of Harriman shall consist of the mayor and six (6) council members elected by the voters of Harriman pursuant to the provisions of this charter, and shall be known as the city council. The mayor and all six (6) council members shall be elected from the city-at-large. The term of office for the mayor and all council members shall be four (4) years, and their terms shall be staggered. The mayor and council members elected in any general city election shall commence their terms by taking their oath of office at the beginning of the first regular council meeting in September following the regular city election or at 7:30 p.m. on the first Tuesday of September following the regular city election, whichever occurs first.

Section 2. Mayor Pro Tem. The city council, at the first regular meeting following the election in June, 1997, and at the first regular meeting following the general city election in every even or odd-numbered year thereafter, shall elect one (1) of their number as mayor pro tem to carry out the duties of mayor in his/her absence, for a term of two (2) years.

Section 3. Qualifications for office. The mayor and council members shall be qualified voters of the city, be at least twenty-one (21) years of age, and shall hold no other elected public office. No person shall be eligible for the office of mayor or council member unless he shall have been for at least one (1) year next preceding his election a resident of the City of Harriman. Candidates shall be permitted to file a nominating petition for only one (1) office in any general city election. No person shall become mayor or council member who has been convicted of malfeasance or misfeasance in office or a crime involving moral turpitude. A mayor or a council member who files a nominating petition for mayor or a council position other than his own and whose own position is not up for re-election must resign his current position as mayor or council member at least thirty (30) days prior to the filing deadline for nominating petitions for the next general city election.

Section 4. Salaries. The city council may set the annual salary of the city council by ordinance, but no ordinance establishing or increasing such salary shall become effective until the expiration of the current terms of the mayor and all council members; provided however, that until their salaries are so set the salary of the mayor shall be two hundred dollars (\$200) per month and the salary of each council member shall be one hundred dollars (\$100) per month. The council shall adopt an ordinance or resolution authorizing and regulating the reimbursement of municipal officers and employees for the actual expenses they incur in the performance of the duties of their offices or employment. The mayor and council members shall be entitled to reimbursement under the provisions of that ordinance or resolution.

Section 5. Time and place of meetings. The city council shall, by ordinance, fix the time and place at which the regular meetings of the city council shall be held. Until otherwise provided by ordinance, the regular meeting of the city council shall be held at 7:30 p.m. on the first Tuesday of each month. When such day falls on a legal holiday, the meeting shall be on the next following day unless otherwise prescribed by the city council. Whenever in the opinion of

the mayor or any three (3) council members, the welfare of the city demands it, the city manager shall call a special meeting of the city council.

Section 6. The office of mayor. The mayor shall preside at all meetings of the city council at which he is present, and in his absence, the mayor pro tem shall preside, and in the absence of the mayor and mayor pro tem, the city council shall designate one of its number to preside. The mayor shall be the ceremonial head of the city. The mayor shall have a vote, but no veto power on all actions of the city council. It shall require an affirmative vote of at least four (4) members of the council to adopt all ordinances, resolutions and motions of the council, unless otherwise provided in this charter. Abstentions shall be counted neither as a yes nor a no vote.

Section 7. Vacancies. A vacancy shall exist, and the city council shall declare the same, by resolution, if the mayor or a council member either resigns, dies, moves his residence from the city, is convicted of malfeasance or misfeasance in office, a felony, a violation of this charter or election laws of the state, or a crime involving moral turpitude, or fails to attend three (3) consecutive meetings of the city council without being excused by a majority vote of the city council present and voting. Abstentions shall be counted neither as a yes nor a no vote. No member of the city council can resign his/her position for the purpose of being appointed to a longer term on the city council. If the office of mayor shall become vacant, the mayor pro tem shall automatically become mayor for the remainder of the unexpired term, and the council shall elect another of its members to the office of mayor pro tem to serve during the remainder of the unexpired term. The council shall, in accordance with the provisions of this section, fill the vacancy in the council created by the mayor pro tem becoming mayor. Any vacancy in the city council shall be filled by appointment by a majority vote of the remaining members of the city council, and the council member so appointed shall be a qualified resident of the City of Harriman and shall serve until the next general municipal election at which time a qualified candidate shall be elected for the balance of the term or for a new term if the current term has expired. In the event of the occurrence of any vacancy in the city council which may, under the

provisions of this section, be filled by appointment by the remaining council members, and such remaining council members shall fail or neglect to fill such vacancy within thirty (30) days of its occurrence, it shall be the duty of the election commissioners of Roane County, upon certification of such facts to them by the mayor or any council member, to call and cause to be held, as hereinabove provided a special election for the purpose of filling such vacancy for the remainder of the unexpired term, provided such certification be made to the election commissioners for Roane County within sufficient time to permit the holding of such special election at least one hundred eighty (180) days prior to the general city election.

Section 8. Oath of office. The mayor, council members, and city judge before entering upon their duties, shall each take and subscribe and file with the city manager an oath or affirmation that they will support the Constitution of the United States and of the State of Tennessee and the charter and ordinances of the City of Harriman, and that they will faithfully discharge the duties of their office.

Section 9. Quorum, attendance, and adjournment. A majority of all the members of the council, excluding vacancies, shall constitute a quorum, but a smaller number may adjourn from day to day and may compel the attendance of the absentees in such manner and under such penalties as the city council may provide. A regular meeting at which a quorum is present may be adjourned by a majority vote, either from day to day, or from time to time; but no such adjournment shall be taken to a date beyond the next regular meeting; and any adjourned meeting shall continue as a regular meeting throughout such adjournment.

Section 10. Style and passage of ordinances. The style of all city ordinances shall be: "Be it enacted by the city council of the City of Harriman". Each ordinance shall be passed at two (2) separate meetings on two (2) separate days by at least four (4) affirmative votes, respectively, before the same is operative. However, at least thirteen (13) days shall have lapsed between the first and final passage of any ordinance. A reasonable number of written copies of ordinances shall be available to the public at the meetings and at city hall before the

second and final passage by the city council. Ordinances, resolutions and other measures of the city council shall be passed by an affirmative vote of at least four (4) of the council members present and voting. Abstentions shall be counted neither as a yes nor a no vote.

ARTICLE V

City Manager

Section 1. City manager appointment, salary, removal. The city council shall appoint and fix the salary of the city manager, who shall serve at the will of the city council. The city manager shall be appointed by virtue of experience and/or educational qualifications for this position. Neither the mayor nor any member of the city council, nor any employee of the city, except for the assistant city manager, should such position be created shall be eligible for appointment as city manager until two (2) years has elapsed after such person shall have ceased to be mayor or a member of the city council or an employee of the city.

Section 2. Residence. Residence in the city at the time of appointment of a city manager shall not be required as a condition of the appointment but within ninety (90) days after reporting for work, the city manager must become a resident of the City of Harriman.

Section 3. Absence of the city manager. In the temporary absence or disability of the city manager, the assistant city manager, if such position be established or any other department head designated by the city manager shall serve as acting city manager. If and when the city manager's absence exceeds thirty (30) consecutive days, or the city manager has failed to designate an acting city manager, or the city manager is removed from office, or vacates the office for any reason, the city council shall have the right to appoint the acting city manager.

Section 4. Powers and duties of the city manager. The city manager shall be the chief administrative officer of the city. The city manager shall be responsible to the city council for the administration of all city affairs placed in his charge by or under this charter. The city manager shall have the following powers and duties:

(1) To appoint and, when deemed necessary for the good of the service, suspend or remove all city employees and appointive officers, except for the city attorney and city judge;

(2) To direct and supervise the administration of all departments, offices and agencies of the city, except the office of city judge;

(3) To attend all council meetings and have the right to take part in discussion, but may not vote;

(4) To see that all laws, provisions of this charter and acts of the board, subject to enforcement by the city manager or by officers subject to his direction and supervision, are faithfully executed;

(5) To prepare and submit the annual budget and an annual capital budget update to the city council at the appropriate time;

(6) To submit to the city council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each month and at the end of the fiscal year;

(7) To make such other reports as the city council may require concerning the operations of city departments, offices and agencies subject to the city manager's direction and supervision; and

(8) To keep the city council fully advised as to the financial condition and future needs of the city and make such recommendations to the city council concerning the affairs of the city as he deems desirable. The city council may not remove these powers and duties from the city manager but may require the city manager to perform such other duties as may be required by the city council.

Section 5. Council--administrative relations. The city council and its members shall deal with the administrative services of the city only through the city manager, except for the purpose of inquiry, and neither the city council nor any member thereof shall give orders or instructions

to any subordinates of the city manager. The city manager shall take orders and instructions from the council only when sitting in a duly convened meeting of the city council, and no individual member shall give any orders or instructions to the city manager.

Section 6. Removal of city manager. The city manager shall not be removed from office, other than for misconduct in office, during or within a period of ninety (90) days following the beginning of a new term of office next succeeding any general municipal election held in the city, at which election a new member of the city council is elected, or when a new member is appointed. The purpose of this provision is to allow any newly elected or appointed member of the city council to observe the actions and ability of the city manager in the performance of the powers and duties of his office. After the expiration of the ninety (90) day period aforementioned, the city manager may be removed only by a majority vote of the city council present and voting. Abstentions shall be counted neither as a yes nor a no vote.

ARTICLE VI

Finance Director

Section 1. Appointment, compensation, and specific requirements, powers, and duties of office. The finance director shall be appointed by the city manager and shall be the head of the department of finance. He shall receive a salary to be fixed by the city council and shall be bonded in such amount as may be provided by ordinance. He shall by his signature attest all instruments signed in the name of the city. He shall have power to administer oaths.

Section 2. Keeper of minutes. It shall be the duty of the finance director to be present at all meetings of the city council and to keep a full and accurate record of all business transacted by the same, to be preserved in permanent book form.

Section 3. Custodian of public records, bonds, etc. The finance director shall have custody of and preserve in his office, the city seal, the public records, original rolls of ordinances, ordinance books, minutes of the city council, contracts, bonds, titled deeds, certificates and papers, all official indemnity or surety bonds (except his own bond, which shall

be in the custody of the city manager), and all other bonds, oaths and affirmations and all other records, papers and documents not required by this charter or by ordinance to be deposited elsewhere, and register them by numbers, dates and contents, and keep an accurate and modern index thereof.

Section 4. Copies and certified copies of records, papers, etc. The finance director shall provide, and, when required by any office or person certify copies of records, papers and documents in his office and charge therefor, for the use of the city, such fees as may be provided by ordinance; and shall cause copies of ordinances to be printed, as may be directed by the city council, and kept in his office for distribution.

Section 5. Supervision of records of fiscal affairs. The finance director as the head of the department of finance, shall exercise a general supervision over the fiscal affairs of the city, and general accounting supervision over all the city's property assets and claims, and the disposition thereof. He shall be the general accountant and internal auditor of the city; he shall have custody of all papers, records and vouchers relating to the fiscal affairs of the city, and the records in his office shall show the financial operations and condition, property, assets, claims and liability of the city, all expenditures authorized and all contracts in which the city is interested.

Section 6. Treasurer. The finance director shall be the treasurer of the city; as such, it shall be his duty to collect, receive and receipt for the taxes and all monies, other revenues and bonds from all departments of the city, and the proceeds of its bond issues, and to disburse the same.

Section 7. Performance of any other duties. The finance director shall also perform any other duties imposed upon him by this charter or by ordinance.

Section 8. Absence of finance director. In the temporary absence or disability of the finance director, the assistant finance director, if such position be established, or another

employee within the finance department designated by the city manager shall serve as acting finance director.

ARTICLE VII

City Attorney

Section 1. Qualifications. The city attorney shall be an attorney at law entitled to practice in the courts of the State of Tennessee and a resident of the City of Harriman.

Section 2. Appointment, duties, and compensation. The city attorney shall be appointed by the city council and shall direct the management of all litigation in which the city is a party, including the function of prosecuting attorney in the city court: represent the city in all legal matters and proceedings in which the city is a party or interested, or in which any of its officers is officially interested: attend all meetings of the city council: advise the city council and committees or members thereof, the city manager, and the heads of all departments and divisions as to all legal questions affecting the city's interests; and approve as to form all contracts, deeds, bonds, ordinances, resolutions and other documents to be signed in the name of or made by or with the city. His compensation shall be as fixed by the city council and he shall serve at the will of the city council. As a condition of the appointment, the city attorney shall be required to be a resident of the City of Harriman for twelve (12) months preceding the appointment.

Section 3. Removal of the city attorney. The city attorney shall not be removed from office, other than for misconduct in office, during or within a period of ninety (90) days following the beginning of a new term of office next succeeding any general municipal election held in the city, at which election a new member of the city council is elected, or when a new member is appointed. The purpose of this provision is to allow any newly elected or appointed member of the city council to observe the actions and ability of the city attorney in the performance of the powers and duties of his office. After the expiration of the ninety (90) day period aforementioned, the city attorney may be removed only by a majority vote of the city council

present and voting. Abstentions shall be counted neither as a yes nor a no vote. This section does not preclude nor limit the city council's authority to hire, employ or contract with outside counsel during this ninety (90) day period of time or during any time the city is being served by a city attorney appointed by the city council.

ARTICLE VIII

Administration

Section 1. Departments, offices and agencies generally. The city council may establish city departments, offices or agencies in addition to those created by this charter, and may prescribe the functions of all departments, offices and agencies not inconsistent with this charter. Departments, offices and agencies created by the city council may be abolished or combined by the council.

Section 2. Direction and supervision of departments, offices, or agencies. All departments, offices and agencies shall be under the direction and supervision of the city manager and shall be administered by an officer appointed by and subject to the direction and supervision of the city manager. The city manager may serve as the head of one (1) or more such departments, offices or agencies or may appoint one (1) person as the head of two (2) or more of them.

Section 3. Personnel rules. The city council shall adopt personnel rules which shall include but not be limited to:

- (1) Job descriptions;
- (2) A pay plan;
- (3) The hours of work, attendance regulations and provisions for sick and vacation leave; and
- (4) A rule addressing conflict of interest of city employees in the performance of their duties. If personnel rules and regulations exist, at the adoption of this charter, the city manager shall be granted the powers formerly held by the individual council

members, the mayor, the city council and the individual boards for respective departments, with the present personnel rules being maintained until new personnel rules are approved.

Personnel rules shall only prescribe the conditions under which personnel actions may be taken and shall not subvert the city manager's authority to administer all personnel actions that he deems necessary.

Section 4. Officers, employees, etc., who handle money shall be bonded. The city manager and every officer, agent and employee having duties embracing the receipt, disbursement, custody, or handling of money shall, before entering upon his duties, execute a surety bond with some surety company authorized to do business in the State of Tennessee, as surety, in such amount as shall be prescribed by ordinance or this charter. All such bonds and sureties shall be subject to the approval of the city council, and the city council may provide for blanket bonds. The cost of all bonds shall be an expense of the city.

ARTICLE IX

Finance

Section 1. Fiscal year. The fiscal year of the city shall begin on the first day of July and end on the last day of June.

Section 2. Annual departmental budgets required. The adoption of an annual budget for each department shall be a prerequisite to the appropriation of money for municipal purposes and the levy of property taxes.

Section 3. City manager required to prepare and submit annual budget and explanatory message. At least sixty (60) days before the beginning of the fiscal year the city manager shall prepare and submit to the city council a budget for the ensuing fiscal year and an accompanying message. The city manager's message shall explain the budget both in fiscal terms and in terms of work programs. It shall outline the proposed financial policies of the city for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the

current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the city's debt position and include such other material as the manager deems desirable.

Section 4. Required content and organization of budget. The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the city manager deems desirable or the city council may require.

Section 5. Amendments to budget, when budget must be adopted, and effect of adoption. After the first passage the city council may adopt the budget with or without amendment, but no amendment shall decrease expenditures required by law for debt service. The budget shall be adopted for the ensuing fiscal year before the end of the current fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

Section 6. Supplemental appropriations. If during the fiscal year the city manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the city council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

Section 7. Deficits. If at any time during the fiscal year it appears probable to the city manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the city council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The city council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce appropriations.

Section 8. Transfer of unencumbered appropriations. At any time during the fiscal year the city manager may transfer part or all of any unencumbered appropriation balance among

programs within a department, office or agency and, upon a written request by the city manager, the city council may by resolution transfer part or all of any unencumbered accumulated balances from one department, office, or agency to another.

Section 9. Lapsing of appropriations. Every appropriation shall lapse at the end of the fiscal year to the extent that it has not been expended or encumbered.

Section 10. Incurrence and discharge of obligations. No payment shall be made or obligation incurred against any appropriation unless the city manager or an officer designated by him first certifies that an appropriation has been made for that purpose and that there is unexpended and unencumbered in the appropriation for this purpose an amount sufficient to meet the obligation or to make the expenditure. However, except where prohibited by law, nothing herein shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year.

Section 11. Accounting records and audits. There shall be installed and maintained adequate accounting records in accordance with generally accepted principles of municipal accounting. The same account titles shall be used throughout the accounting records, the budget and financial statements. Constant and comprehensive budgetary control shall be maintained. An audit of the financial affairs of the city shall be required by action of the city council and same be made after the end of each fiscal year by a public accountant skilled in such work. Any taxpayer may file a bill in chancery court to compel the city council to have the audit made if such accountant has not been employed within one (1) month after the end of the fiscal year.

Section 12. Competitive bidding and purchasing procedures. Purchasing and bidding procedures shall be established by ordinance in accordance with state law.

ARTICLE X

Taxation

Section 1. Assessment and levy. All property within the city not exempt by general law shall be assessed for taxation upon the same principles established in regard to state and county taxation.

Section 2. Due and delinquent dates; penalties and interest. Property taxes shall be payable on and after the first day of October of each year, and shall become delinquent on the first day of March following. The city council by ordinance shall fix penalties and interest on delinquent taxes.

Section 3. Collection of delinquent taxes. The city council may provide by ordinance for the collection of delinquent real property taxes by the finance director as provided by general law; or by the city attorney acting in accordance with general laws providing for the collection of delinquent city or county taxes; or by the use of any other available legal process and remedies. If not otherwise collected, the city attorney, or other attorney designated by the city council, shall file suit for collection of all delinquent taxes not later than eighteen (18) months following date of delinquency. The city may also provide by ordinance that in the event the city purchases any property sold at a delinquent tax sale, it may at the expiration of the period of redemption for the purpose of restoring such property to the tax rolls of the city sell or give such property to the Habitat For Humanity or any other organization that has the same goals and that meets the same requirements for federal and state tax exemption.

Delinquent personal property taxes shall be collected by distress warrants issued by the finance director and placed in the hands of the police chief for collection.

Section 4. County may collect taxes. The city may contract with the county for the collection of city taxes. The contract may provide for reasonable fees to be paid to the county for this service.

Section 5. Taxes not to be excused. No officer or employee of the city shall have the authority to excuse taxes, penalties, interest, special assessments or other charges due the city, but errors may be corrected when authorized by the city council.

Section 6. Hotel and Motel privilege taxes. (a) Definitions:

(1) "Consideration" means the consideration charged whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever; provided, however, nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.

(2) "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients For dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

(3) "Occupancy" means the use or possession, or the right to use or possession, of any room, lodgings or accommodations in any hotel.

(4) "Operator" means the person operating the hotel whether as owner, lessee or otherwise.

(5) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(6) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodations in a hotel for a period of less than ninety (90) continuous days.

(b) The city council of the City of Harriman is authorized to levy and collect a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount not to exceed five percent (5%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided by this charter.

(c) Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the hotel and given directly or transmitted to the transient. Such tax shall be collected by such operator from the transient and remitted to the city.

When a person has maintained occupancy for ninety (90) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected from or charged to him, and the operator shall receive credit for the amount of such tax if previously paid or reported to the City of Harriman.

(d) The tax hereby levied shall be remitted by all operators who lease, rent or charge for any rooms, lodgings, spaces or accommodations in hotels within the city to the finance director, such tax to be remitted to such officer not later than the twentieth (20th) day of each month for the preceding month. The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy whether prior to occupancy or after occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the city entitled to such tax shall be that of the operator.

(e) The finance director shall be responsible for the collection of such tax. A monthly tax return under oath shall be filed with the finance director by the operator with such number of copies thereof as the finance director may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the finance director and approved by the city council prior to use. The finance director shall audit each operator in the city at least once per year and shall report on the audits made on a quarterly

basis to the city council. The city council shall adopt ordinances to provide reasonable rules and regulations for the implementation of this tax.

(f) No operator of a hotel shall advertise or state in any manner whether directly or indirectly that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded.

(g) Taxes collected by an operator which are not remitted to the finance director on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and is liable for an additional penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is unlawful and shall be punishable by a civil penalty not in excess of five hundred dollars (\$500), except as otherwise prescribed by law.

(h) It is the duty of every operator liable for the collection and payment to the city of any tax imposed by this section to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of the payment to the city, which records the finance director shall have the right to inspect at all reasonable times.

(i) The finance director in administering and enforcing the provisions of this section shall have as additional powers, those powers and duties with respect to collecting taxes as provided in Tennessee Code Annotated, Title 67, or otherwise provided by law for the county clerks.

Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Tennessee Code Annotated, Title 67, Chapter 23, it being the intent of this section that the provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the authority of this section. The finance

director shall also possess those powers and duties as provided in Tennessee Code Annotated, Section 67-1-707, for the county clerks with respect to the adjustment and refund of such tax.

With respect to the adjustment and settlement with taxpayers all errors of taxes collected by him under authority of this section shall be refunded by the city. The finance director shall have the authority to direct the refunding of the same. Notice of any tax paid under protest shall be given to the finance director and the ordinance authorizing levy of the tax shall designate an officer against whom suit may be brought for recovery.

(j) The finance director is hereby charged with the duty of collection of the tax herein authorized and shall place the proceeds of such tax in such fund as the city council may specify by ordinance.

(k) The taxes collected hereunder shall be distributed by the city council, provided at least ten percent (10%) of the taxes collected shall be applied to promote tourism in the area.

ARTICLE XI

City Court

Section 1. City court established. There is hereby established within the City of Harriman a city court, which shall have jurisdiction over all infractions of municipal ordinances of the City of Harriman. The city judge shall try all persons charged with violations of the ordinances of the city, and shall have the power to levy fines, penalties and forfeitures not exceeding five hundred dollars (\$500) or the maximum allowable under general state law, whichever is greater, for each offense, and to impose such costs as the council may by ordinance establish. The city judge is authorized to offer persons assessed a fine or penalty and costs for the violation of a municipal ordinance the option of performing community service for the city in lieu of paying all or a portion of the fine or penalty and costs; provided that the city has first by ordinance established a community service system. Under any such community service system, the fine or penalty and costs imposed shall be worked off on an hourly basis at a rate at least equal to the regular minimum wage prescribed by the Fair Labor Standards Act.

Section 2. Appointment, election, qualifications, oath, compensation, and restrictions on office of city judge. The city council, at the first regular meeting in September, 2000, following the general city election in August, 2000, and at the first regular meeting in September following the general city election in every even-numbered year thereafter, shall appoint a city judge. The city judge holding office at the time of adoption of this city charter, or the successor to the city judge should a vacancy occur, shall continue to serve as city judge until he is reappointed or his successor is appointed at the first regular meeting of the city council in September, 2000. Only registered voters who are thirty (30) years of age, licensed to practice law in the state of Tennessee, have been a resident of the state of Tennessee for five (5) years and a resident of the City of Harriman for one (1) year shall be eligible for appointment to the office of city judge. The city judge's term of office shall begin with the oath of office following his appointment by the city council. The oath of office shall be the same as the oath required for the mayor or council members. The city council shall set the salary of the city judge each year with the adoption of the budget.

Section 3. Court policies and procedures. The policies and procedures governing the day-to-day operations of the court shall be provided by ordinance.

Section 4. City judge to be exclusive judge of law and facts. The city judge shall be the exclusive judge of the law and facts in every case before him and no official or employee of the city shall attempt to influence his decision except through pertinent facts presented in court.

ARTICLE XII

Schools

Section 1. School district; board of school directors. The City of Harriman is hereby created a separate school district. The common schools in said city shall be managed and controlled by a board of school directors composed of six (6) persons, who shall possess the same qualifications as required under the school laws of the state of Tennessee for members of the county board of education, and whose term of office shall be four (4) years and their terms

shall be staggered. The board of school directors elected in any general city election shall commence their terms by taking their oath of office at the beginning of the first regular board of school directors meeting in September following the regular city election or at 7:30 p.m. on the first Tuesday of September following the regular city election, whichever occurs first.

In case a vacancy shall occur in the board from removal or other cause, the remaining members of the board shall appoint a properly qualified person to fill the vacancy until the next election, at which time a member shall be elected to fill out the unexpired term. The board of school directors shall at its first meeting, following each regular city election, organize as a board and shall appoint one (1) of its number chairman of the board, who shall hold the office of chairman of the board for two (2) years and until his successor is appointed. The board shall at its first meeting, following each regular city election, appoint one (1) of its number to be clerk of the board, who shall hold his office for two (2) years and until his successor is appointed. He shall keep a record of all the proceedings of the board. All papers and proceedings emanating from the board shall be signed by the chairman and clerk thereof, and they shall sign all orders drawn upon the treasury. All process against the school district shall be served upon the chairman of the board, and the finance director shall be treasurer of the board, and shall have power to receive from the state and county officers all school moneys to which the district may from time to time become entitled. The board shall have all the powers and perform all the duties now or hereafter required by the laws of the state, of members of the county board of education. The board by the name and style of "The Board of Directors of the City of Harriman School District" shall be a body corporate with power to sue and be sued, contract and be contracted with, and to take and hold real and personal property for school purposes, and sell and convey the same when for the best advantage of the schools of the city.

Section 2. Taxes to provide funds for teachers, wages and payment of current expenses.

Whenever the public school funds, payable to "The City of Harriman School District", shall be insufficient to provide funds applicable to the payment of teachers' wages and the current

expenses for maintaining the public schools in said city, the board for school directors may certify that fact to the city council, together with an estimate of what amount will be necessary to meet the deficiency therein for the ensuing year if said sum will not require a tax exceeding the rate levied by the state for state purposes for the same year, then the city council shall levy and collect the amount of such estimate in the same manner as is provided for the levy and collection of other taxes for city purposes.

Section 3. General school laws to be applicable. The general laws of the state in regard to common schools shall apply to the City of Harriman, so far as the same are not modified herein, and said district shall be entitled to all sums of money from the public school funds that it would be entitled to receive if the district were organized under the general laws of the state.

ARTICLE XIII

Miscellaneous and Transitional Provisions

Section 1. Corporate existence, existing ordinances and resolutions. The corporate existence of the City of Harriman is continued. All existing ordinances, resolutions or other actions of the city council not inconsistent with this charter shall remain in full force and effect until amended or repealed in the manner herein provided.

Section 2. Expiration of terms of elected officers. The mayor and council members in office when this act is ratified shall continue in office as the mayor and council members until their successors are elected and qualified.

Section 3. Legal effect of this act. This act is declared to be a public act, and may be read in evidence in all courts of law and equity.

Section 4. Conflicting acts. All acts and parts of acts in conflict with this act be and the same are hereby repealed from and after the effective date of this act as hereinafter provided.

Section 5. Severability. If any article, section, subsection, paragraph, sentence, or part of this charter shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair any other parts of this charter unless it clearly appears that such other

parts are necessarily dependent upon the part or parts held to be invalid or unconstitutional. It is the legislative intent in enacting this charter that each article, section, subsection, paragraph, sentence, or part be enacted separately and independently of each other.

Section 6. Gender. Wherever, in this charter, "man, men, him, his" or their related pronouns may appear, either as words or as parts of words, they have been used for literary purposes and are meant in their generic sense (i.e., to include all humankind-both female and male sexes).

SECTION 2. This act shall become effective immediately when it is approved by a majority vote in a referendum on the question of approval of the act, to be held on June 3, 1997. If approved in the referendum held on June 3, 1997, this act shall govern the terms of office of those officials elected on June 3, 1997, and all future elections under this charter.

SECTION 3. This act shall have no effect unless it is approved by a majority of the number of qualified voters of the City of Harriman voting in an election on the question of whether or not the act should be approved. The ballots used in the regular election to be held on June 3, 1997 shall have printed on them the substance of this act and the voters shall vote for or against its approval. The votes cast on the question shall be canvassed and the results proclaimed by the county election commissioners and certified by them to the secretary of state as provided by law in the case of general elections. The qualifications of voters voting on the question shall be the same as those required for participation in the city elections of the City of Harriman. All laws applicable to general elections shall apply to the determination of the approval or rejection of this act. The cost of the election shall be paid by the City of Harriman.

SECTION 4. For the purpose of approving or rejecting the provisions of this act, as provided in Section 3, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes the provisions of the act shall be effective only upon being approved as provided in Section 3.